

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

MARY OBERTHER, *on behalf of herself*  
*And all others similarly situated,*  
Plaintiff

v.

MIDLAND CREDIT MANAGEMENT, INC.,  
MIDLAND FUNDING, LLC, and ENCORE  
CAPITAL GROUP, INC.  
Defendant.

C.A.No. 3:14-CV-30014

**MOTION TO DISMISS OF DEFENDANTS MIDLAND CREDIT MANAGEMENT, INC.,  
MIDLAND FUNDING LLC, AND ENCORE CAPITAL GROUP, INC.**

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Defendants Midland Credit Management, Inc., Midland Funding LLC, and Encore Capital Group, Inc. (“Defendants”) hereby move to dismiss the plaintiff’s putative Class Action Complaint for Violations of Federal and State Consumer Protection Statutes (Docket Entry #1) for failure to state a claim on which relief can be granted. As against defendant Encore, plaintiff Mary Oberther (“Plaintiff”) has alleged no facts, which, if proven, would give rise to any liability, as there is no allegation that Encore was involved in the debt collection at issue in this matter. As further grounds for dismissing the Complaint in its entirety, Defendants state that the challenged letter is not misleading or deceptive as a matter of law, and the challenged letter does not “overshadow” the required legal notices set forth in the same communication, as a matter of law, such the defendants have not violated the federal Fair Debt Collection Practices Act, 16 U.S.C.1692, *et seq.*

For the foregoing reasons, set forth more fully in the accompanying memorandum of law, the defendants, Midland Credit Management, Inc., Midland Funding LLC, and Encore Capital

Group, Inc. respectfully request that the plaintiff's Complaint be dismissed in its entirety, with prejudice, including all individual and putative class claims, and that it be awarded its costs and fees and such other and further relief as is just and equitable.

Respectfully submitted,  
Defendants  
Midland Credit Management, Inc., Midland  
Funding LLC, and Encore Capital Group, Inc.,  
By their Attorneys,

/s/ Kara Thorvaldsen

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**CERTIFICATE OF SERVICE**

I, Kara Thorvaldsen, certify that the foregoing document was served on counsel of record on this date, via the court's CM/ECF filing system. I am unaware of any unregistered parties.

/s/ Kara Thorvaldsen